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# ADVANCED LABOUR LAW

VOLUME 1

Richard Charney &  
Tim Gleason

Winter 2015

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# **ADVANCED LABOUR LAW**

**VOLUME 1**

**Richard Charney &  
Tim Gleason**

**Winter 2015**



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# University of Toronto

## Advanced Labour Law

Course No. LAW204H1S

(January to April 2015)

(Tuesdays 6:10 – 8:00 p.m.)

## Reading Timetable

| Date (2015) |   | Pages    |
|-------------|---|----------|
| January 6   | Overview and Jurisdiction   | 1 - 57   |
|             | <i>Labour Relations Act, 1995</i> , SO 1995, c 1, Sch A, ss 1(4)-(5), 69, 114, 126(3).  |          |
|             | <i>Canada Labour Code</i> , RSC 1985, c L-2, ss 18, 18.1, 35, 44-47.3.  |          |
|             | M.A. Hickling, "Interjurisdictional Transfers: Successor Rights at Arbitration" (1991) 2 Lab. Arb. Y.B. 223   |          |
|             | <i>London and District Service Workers Union, Local 220 v Rogers Cantel Paging Inc.</i> , 1997 CanLII 15530 (OLRB).   |          |
| January 13  | Successor Rights  | 58 - 206 |
|             | <i>Ivanhoe Inc. v UFCW, Loc 500</i> , 2001 SCC 47, [2001] 2 SCR 565 (CanLII).   |          |
|             | <i>Sept-Îles (City) v Quebec (Labour Court)</i> , 2001 SCC 48, [2001] 2 SCR 670 (CanLII).   |          |
|             | <i>Canadian Union of Public Employees v. Metropolitan Parking Inc.</i> , [1980] 1 CLRBR 197 (OLRB) (CanLII).  |          |
|             | <i>Retail, Wholesale &amp; Department Store Union, Local 414 v. New Dominion Stores</i> , [1989] 2 CLRBR (2d) 299 (OLRB) (CanLII).                                  |          |
|             | <i>United Food and Commercial Workers International Union, Local 175 v. 1390386 Ontario Ltd. (c.o.b. Sobeys Ontario)</i> (2002), 86 CLRBR (2d) 268 (OLRB) (CanLII). |          |
|             | <i>Service Employees' Union, Local 183 v. Riverview Manor</i> (1983), 5 CLRBR (NS) 40 (OLRB) (CanLII).  |          |



*Hotel Employees Restaurant Employees Union, Local 75 v. Accomodex Franchise Management Inc. v. Accomodex Franchise Management Inc.*, [1993] OLRB Rep. April 281 (CanLII).

## January 20

## Successor Rights

207 - 298

*GMAC Commercial Credit Corporation - Canada v. T.C.T. Logistics Inc.*, 2006 SCC 35, [2006] 2 SCR 123.

*Canadian Union of Postal Workers v. Canada Post Corporation et al. (Sheldon Manly Drugs Ltd.)* (1987), 87 CLLC 16,049 (CLRB) (QL).

*Canada Post Corporation and Nieman's Pharmacy* (1989), 4 CLRBR (2d) 161 (QL).

## January 27

## Successor Rights

299 - 421

*National Automobile, Aerospace and Agricultural Implement Workers Union of Canada (CAW-Canada) and its Local 222, v. Charterways Transportation Limited, The Corporation of the Town of Ajax*, [1994] OLRB Rep. October 1296 (CanLII).

*Ajax (Town of) v. National Automobile, Aerospace and Agricultural Implement Workers Union of Canada* (1998), 41 OR (3d) 426, [1998] 166 DLR (4th) 516 (CA) (CanLII).

*Service Employees International Union, Local 204 v. Durham Access to Care*  
[2000] OLRD No 3408, 2000 CanLII 7273 (OLRB).

*Power Workers' Union - Canadian Union of Public Employees, Local 1000, C.L.C. v. Milton Hydro-Electric Commission*, 2002 CanLII 28840 (OLRB).

*Lincoln Hydro Electric Commission*, [1999] OLRB Rep. May/June 397, [1999] OLRD No 1264 (QL).

*Zellers Inc. (Store #264) and Target Canada co. and UFCW, Loc 1518 2012 CanLII 68305.*

*Adam v. Daniel Roy Ltée.*, [1983] 1 SCR 683 (CanLII).

## February 3

## Common Employer

422 - 599

*Tober Enterprises (1979) Ltd.(Re)* (2005), 109 CLRBR (2d) 220, [2005] BCLRBD No 2 (QL).

*Ontario Legal Aid Plan v. OPSEU*, [1991] OLRB Rep. November 1327 (CA) (QL).

*Air Canada (Re)*, [1999] CIRB no 44, [1999] CIRBD No 44 (December 22, 1999) (QL).

*Labourers' International Union of North America, Local 1059 v. John Hayman & Sons Company Limited*, 1984 CanLII 972, [1984] OLRB Rep. June 822 (OLRB).

*Service Employees International Union, Local 204 v. Durham Access to Care*(2000), 64 CLRBR (2d) 21, 2000 CanLII 12981 (OLRB).

*Calgary Zoological Society and CUPE, Local 37, [2012] ALRBD No. 72 (ALRB)*

*International Brotherhood of Electrical Workers, Local 353 v. Agincourt Electric (c.o.b. KNK Limited)* (1991), 10 CLRBR (2d) 270, 1991 CanLII 6117 (OLRB).

*Amalgamated Clothing & Textile Workers Union v. Horncro Plastics Inc.*, [1993] OLRB Rep. May 411, 1993 CanLII 8031 (OLRB).

*Air Canada*, 2001 CLLC ¶220-010, 65 C.L.R.B.R. (2d) 50, [2000] CIRB 90 (CanLII).

*Penmarkay Foods Limited v. Retail Wholesale & Department Store Union, Local 414*, [1984] OLRB Rep. September 1214, 1984 CanLII 1128.

|             |               |           |
|-------------|---------------|-----------|
| February 10 | Intermingling | 600 - 618 |
|-------------|---------------|-----------|

*Beachville Lime Ltd. v. Communications, Energy and Paperworkers Union, Local 3264* (2000), 67 CLRBR (2d) 50, 2000 CanLII 6299 (OLRB).

*Canadian Union of Public Employees Local 1263 v. Niagara (Municipality)* (2004), 104 CLRBR (2d) 145, 2004 CanLII 21970 (OLRB).

February 17 [Reading Week]

|             |                 |           |
|-------------|-----------------|-----------|
| February 24 | Contracting Out | 619 - 732 |
|-------------|-----------------|-----------|

*National Automobile, Aerospace Transportation and General Workers Union of Canada (CAW-Canada) and its Local 4271 v. Aramark Canada Ltd.*, (2001), 68 CLRBR (2d) 235, 2001 CanLII 17790 (OLRB).

Morton G. Mitchnick, "Contracting Out: Two Solitudes" (1998), 8 Lab. Arb. Y.B.  
79

*Russelsteel Ltd. v. United Steelworkers of America (Collective Agreement Grievance)* (1966), 17 LAC 253 (Ontario) (Arthurs) (QL).

*School Division No. 13 (French Grievance)* (2003), 120 LAC (4th) 150 (Saskatchewan) (Hood) (QL).

*Northwestel Inc. and I.B.E.W., Loc. 1574, Re* (1996), 55 LAC (4th) 57 (Canada) (Kelleher) (QL).

*Ivaco Rolling Mills v. United Steelworkers of America, Local 8794 (Laframboise Grievance)* (1997), 67 LAC (4th) 66 (Ontario) (Adell) (QL).



*T.R.W. Canada Ltd. and Thompson Products Employees' Assn. (Chambers) (Re)* (2002), 113 LAC (4th) 364 (Ontario) (Goodfellow) (QL).

*York Federation of Students and C.U.P.E., Loc. 1281 (Re)* (2004), 132 LAC (4th) 444 (Ontario) (Keller) (QL).

|                |                        |                  |
|----------------|------------------------|------------------|
| <b>March 3</b> | <b>Contracting Out</b> | <b>733 - 896</b> |
|----------------|------------------------|------------------|

*Giant Yellowknife Mines Ltd. and C.A.S.A.W., Loc. 4, Re* (1990), 15 LAC (4th) 52 (Canada) (Bird) (QL).

*National Auto Radiator Manufacturing Co. and C.A.W, Loc. 195, Re* (1990), 16 LAC (4th) 45 (Ontario) (Marcotte) (QL).

*Canadian National Railways v. National Automobile, Aerospace, Transportation and General Workers Union of Canada (CAW-Canada), Local 100* (2004), 142 LAC (4th) 322 (Canada) (Chapman) (QL).

*International Forest Products* (2005), 144 LAC (4th) 51 (British Columbia) (McPhillips) (QL).

*Canadian Owner-Operator Workers' Association, Local 2001 v. Bridge Terminal Transport (Canada) Inc.*, 2007 BCSC 1653(CanLII).

*Hydro Ottawa Limited v. I.B.E.W., Local 636*, 2007 ONCA 292, (2007), 85 OR (3d) 727 (CanLII).

*Labourers' International Union of North America, Local 506 v. Dalton Engineering & Construction Limited*, [1988] OLRB Rep. June 567, 1988 CanLII 3667.

*Toronto Sun v. CEP*, Local 87-M, 2010 CanLII 63898 (ON LA).

*Vale Canada Ltd. v. United Steelworkers of America, Local 6500 (Contracting Out Grievance)*, (2012), 218 LAC (4th) 204 (QL).

*Essar Steel Algoma Inc. v. United Steelworkers, Local 2251* (2012), 216 LAC (4th) 14 (QL).

|                 |                      |                  |
|-----------------|----------------------|------------------|
| <b>March 10</b> | <b>True Employer</b> | <b>897 - 999</b> |
|-----------------|----------------------|------------------|

*OPSEU v. OPAC/MPAC*, [2006] O.L.A.A. No. 609 (MacDowell)

*OPSEU v. MPAC*, 2013 CanLII 12695 (MacDowell)

|                 |   |                    |
|-----------------|---|--------------------|
| <b>March 17</b> | <b>True Employer/<br/>Bargaining Unit Reviews</b> | <b>1000 - 1042</b> |
|-----------------|---|--------------------|

*Seeking a Balance: Canada Labour Code Part 1 Review* (Ottawa: Public Works and Government Services Canada, 1995), pages 67 - 98 (Sims Report)



*Rogers Cablesystems Ltd. (Re)*, [2000] CIRB no. 51, [2000] CIRBD No 5 (QL).

**March 24**

**Alternate Structures/  
Construction**

**1043 - 1217**

*Labour Relations Act*, 1995, S.O. 1995, c. 1, Sch. A. s. 57

*Canada Labour Code*, R.S.C. 1985, c. L-2, ss. 33 - 34

*International Longshoremen's and Warehousemen's Union, Ship and Dock Foremen, Local 514 v. Prince Rupert Grain Ltd.*, [1996] 2 SCR 432 (CanLII).

*Offshore Logistics Inc. v. Halifax Longshoremen's Ass'n, I.L.A. Local 269* (2000), 61 CLRBR (2d) 179, [2000] FCJ No 1155 (CA) (QL).

*J.D. Irving, Ltd. v. International Longshoremen's Assn., Local 273 (General Longshore Workers, Checkers, and Shipliners of the Port of Saint John, New Brunswick)* (2003), 228 D.L.R. (4th) 620 (Fed CA) (QL).

*Retail Wholesale Canada, Canadian Service Sector Division of the United Steelworkers of America, Local 1688 v Diamond Taxicab Association (Toronto) Limited*, [1995] OLRB Rep. June 753, 19995 CanLII 9968. (*See materials for Remedies section*)

*Labour Relations Act*, 1995, S.O. 1995, c. 1, Sch. A, ss. 126-128, 134-168

Joseph B. Rose, *Public Policy, Bargaining Structure and the Construction Industry* (Toronto: Butterworths, 1980), pages-57 - 60, 64 - 73

Ontario Ministry of Labour, *Report of the Industrial Inquiry Commission into bargaining patterns in the Construction Industry in Ontario* (Toronto: Queen's Printer, 1976) pages 34-50

*United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada and Local Union 71 v. Eastern Sheet Metal and Mechanical Contractors.*, [1981] OLRB Rep. Jan 26, 1981 CanLII 872 (CanLII).

*Mechanical Contractors Association Ontario v. United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, Local 46 (Sikora Mechanical Ltd.)*, [1982] OLRB Rep. June 941, 1982 CanLII 885.

*Mechanical Contractors Association Ontario v. United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, Local 463*, [1980] OLRB Rep. June 848, 1980 CanLII 799.

**March 31**

**Remedies**

**1218 - 1259**

*Retail Wholesale Canada, Canadian Service Sector Division of the United Steelworkers of America, Local 1688 v Diamond Taxicab Association (Toronto) Limited*, [1995] OLRB Rep. June 753, 19995 CanLII 9968.

*Communications, Energy and Paperworkers Union of Canada (Southern Ontario Newsmedia Guild, Local 87-M) v. Sun Media Corporation*, (September 11, 2009), 2009 CanLII 47253 (OLRB).